

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

NESTOR LEON,	)	
	)	
Petitioner,	)	
vs.	)	NO. CIV-21-0589-HE
	)	
S.R. GRANT,	)	
	)	
Respondent.	)	

**ORDER**

Petitioner Nestor Leon filed a habeas petition pursuant to 28 U.S.C. § 2241 asserting that his rights were violated when he was not provided a D.H.O. report which he needed to appeal his disciplinary proceeding. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to Magistrate Judge Suzanne Mitchell for initial proceedings. After reviewing the petition, Judge Mitchell ordered the government to respond to the petition. In response, the government filed a motion to dismiss for lack of jurisdiction to which petitioner responded. Judge Mitchell has now issued a Report and Recommendation recommending that the motion to dismiss be granted. Petitioner has objected to the Report, which triggers *de novo* review of matters to which objection has been made.

The Report recommends granting the motion to dismiss on the basis that petitioner's claim is moot. Respondent acknowledges that at the time the petition was filed, the BOP did not document whether petitioner was provided a copy of his Disciplinary Hearing Officer's (D.H.O.) report. Subsequently the report was provided to petitioner, and he was informed of his right to appeal the decision.

Petitioner's objection does not address the basis for Judge Mitchell's recommendation — that his claim is now moot. Instead, petitioner attacks the factual basis for the disciplinary decision and presents three previously undisclosed due process violations. For essentially the same reasons stated in the Report, the court concludes that the petition is moot.

Accordingly, the Report and Recommendation is **ADOPTED**. The Motion to Dismiss [Doc. #9] is **GRANTED**. The petition is dismissed without prejudice for lack of jurisdiction.

**IT IS SO ORDERED.**

Dated this 10<sup>th</sup> day of November, 2021.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE